

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

(CHIEF) COL. MICHAEL S. OWL FEATHER-GORBEY,

Petitioner,

v.

CIVIL ACTION NO. 5:22-cv-00384
(Criminal No. 5:21-cr-00214)

UNITED STATES OF AMERICA,

Respondent.

ORDER

This action was referred to United States Magistrate Judge Omar Aboulhosn for submission of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636. On March 29, 2024, Magistrate Judge Aboulhosn submitted his Proposed Findings & Recommendations (“PF&R”), [ECF No. 77], and recommended that the court dismiss without prejudice Petitioner’s 28 U.S.C. § 2255 Motion to Vacate Conviction, [ECF No. 68], and remove this matter from the court’s docket. Objections to the PF&R were due by April 15, 2024. Neither party filed objections to the PF&R or sought an extension of time to do so.

A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). This court is not, however, required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge

as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Because the parties have not filed objections in this case, the court adopts and incorporates herein the PF&R and orders judgment consistent therewith. Petitioner's § 2255 Motion, [ECF No. 68], is **DISMISSED without prejudice**, and the court **DIRECTS** that this matter be removed from the docket.

The court has additionally considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." *Id.* § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: May 21, 2024


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE